



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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**RULE AND REGULATION 51
LIFE REINSURANCE AGREEMENTS**

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Section 1. Authority

This Regulation is adopted and promulgated pursuant to Arkansas Code Annotated §23-61-108 and 23-66-207 and 25-15-201, et seq.

Section 2. Preamble

- A. The Arkansas Insurance Department recognizes that life insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.
- B. However, the Department has become aware that some life insurers, in the capacity of ceding insurer, have at times entered into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, which provide little or no indemnification of policy benefits by the reinsurer. In addition, the Department is concerned with reserve credits taken under reinsurance agreements which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival.

Section 3. Scope

This Regulation shall apply to all licensed domestic life insurers and to all other licensed life insurers who are not subject to a substantially similar regulation in their domiciliary state.

Section 4. Accounting Requirements

- A. No life insurer subject to this Regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment or surrender benefit;

(2) The reserve credit taken by the ceding insurer is not in compliance with the Arkansas Insurance Code, Rules or Regulations, including actuarial interpretations or standards adopted by the Department;

(3) The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

(4) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years, losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience;

(5) The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer: provided, however, that termination of the reinsurance agreement by the reinsurer for non-payment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(6) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) No cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account," and no funds in such account are available for the payment of benefits; or

(8) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

B. Notwithstanding Subsection (A) of this section, a life insurer subject to this Regulation may, with the prior approval of the Commissioner, take such reserve credit as the Commissioner may deem consistent with the Arkansas Insurance Code, Rules or Regulations, including actuarial interpretations or standards adopted by the Department.

Section 5. Written Agreements

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

Section 6. Existing Agreements

Life insurers subject to this Regulation may continue to reduce liabilities or establish assets in financial statements filed with the Department for reinsurance ceded under types of reinsurance agreements described in Sections 2 (B) and 4, provided:

A. The agreements were executed and in force prior to the effective date of this Regulation;

- B. No new business is ceded under the agreements after the effective date of this Regulation;
- C. The reduction of the liability or the asset established for the reinsurance ceded is reduced to zero (0) by December 31, 1992, or such later date approved by the Commissioner as a result of an application made by the ceding insurer prior to December 31 of the year in which this Regulation becomes effective;
- D. The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the Arkansas Insurance Code, Rules or Regulations, including actuarial interpretations or standards adopted by the Department; and
- E. The Department is notified, within ninety (90) days following the effective date of this Regulation, of the existence of such reinsurance agreements and all corresponding credits taken in the ceding insurer's 1990 annual statement.

Section 7. Effective Date

This Regulation shall become effective September 2, 1991.

(signed by Commissioner Douglass)

Lee Douglass
Insurance Commissioner

(signed July 18, 1991)

Date